



NATIONAL AUTOMOBILE DEALERS ASSOCIATION
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Legal & Regulatory Group

August 26, 2002

Docket Section
National Highway Traffic Safety Administration (NHTSA)
400 Seventh Street, SW
Washington, DC 20590

Re: Federal Motor Vehicle Theft Prevention Standard; 49 CFR Part
541; Docket No. NHTSA-2002-12231

Ladies and Gentlemen:

The National Automobile Dealers Association (NADA) represents 20,000 franchised automobile and truck dealers who sell new and used motor vehicles and engage in service, repair and parts sales. Together they employ in excess of 1,000,000 people nationwide, yet more than 60% are small businesses as defined by the Small Business Administration.

Earlier this summer, NHTSA issued a proposal to amend its theft prevention standard. 67 Fed. Reg. 43075, *et seq.* (June 26, 2002). In response, NADA offers the following comments and suggestions which, in part, follow-up NADA's comments to the Department of Justice (DOJ) dated November 10, 1998.

Motor vehicle theft deterrence is of importance to dealerships given that new and used vehicle inventories and service customer vehicles are prime targets for thieves. Dealerships regularly incur significant vehicle theft deterrence costs (e.g., special lighting, fences, key control systems, security guards) and when thefts do occur, they suffer significant out-of-pocket expenses and increased insurance premiums. Consequently, methods, devices, and strategies that effectively deter vehicle theft directly benefit dealership operations.

The operative word is "effective." No doubt, vehicle theft rates have declined since enactment of the Motor Vehicle Theft Law Enforcement Act of 1984 and the Anti Car Theft Act of 1992. Many factors have contributed to this trend including better law enforcement, improved economic conditions, and improved theft deterrence. Unfortunately, both the Department of Transportation (DOT)'s July, 1998 Report to Congress and the Attorney General's July 21, 2000 letter to the Secretary of DOT fail to adequately isolate the parts marking standard's impact on reduced theft rates or on chop shop operations. For example, DOJ largely bases its recommendation for an expanded standard on responses from a survey of law enforcement personnel. Moreover, the cross-sectional time series analysis it relies on fails to make all the necessary and appropriate comparisons. Admittedly, this is not an easy task given the difficulty of determining, for example, the degree to which vehicles in any given in-use make/model fleet, in any given year, were marked and/or came equipped with anti-theft devices. Presumably, DOJ will resort to a higher standard of analysis in its long overdue, long-range parts marking effectiveness review. An in-depth study of actual vehicle thefts and chop shop prosecutions is a must. It also would be useful to survey chop shop operators (or former operators) and used parts retailers on their view of the standard's effectiveness.

The standard's questionable deterrence effectiveness may partially be due to its underutilization by the insurance industry and by law enforcement. NADA concurs with NHTSA's July 1998 finding that more could and should be done by insurance companies and the states to ensure that legitimate parts are used in the repair and rebuilding of motor vehicles. Moreover, there may be inadequacies associated with the standard itself (i.e., easily removable labels). NADA supports NHTSA's decision to evaluate whether to propose performance criteria aimed at more permanent parts marking (e.g., engraving, etching, stamping). While recognizing that more work should be done to adequately quantify the deterrence benefits of the parts marking standard, NADA doesn't oppose expansion

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of its application consistent with the Anti Car Theft Act of 1992.

NHTSA proposes to add a new Section 542.3 to address parts used in both MPVs and cargo vans, apparently modeled on Section 542.2, which addresses identical parts used in both high theft and “low theft” line vehicles. While Section 542.2 arises from specific language in the statute (49 USC §33104 (a)(1)(C)), there doesn’t appear to be a comparable statutory basis for proposed Section 542.3. Nonetheless, NADA doesn’t oppose the concept.

NHTSA has asked whether air bags should be added to the list of “major parts.” NADA recognizes the degree to which air bags are a prime target for theft in part because air bags have been stolen from vehicles on dealer lots. However, before pursuing legislation designed to label air bags as “major parts” for purposes of the marking standard, NADA urges NHTSA to evaluate existing and potential voluntary efforts aimed at curbing air bag theft.

NADA continues to object to the inclusion of glazing to the list of “major parts.” See, NADA comments to NHTSA re: Docket No. 93-50, Appendix A. As the Agency itself recognizes, vehicles aren’t stolen for their glazing materials. Notably, neither NHTSA nor DOJ has calculated the potential vehicle theft deterrent benefits of marking window glazing. Moreover, glazing marking potentially involves visibility and aesthetic concerns not at issue with the current list of “major parts.” In any event, window glazing etching services are widely available to consumers both at the point-of-sale and after sale. In lieu of adding glazing to the list, NADA urges NHTSA to work with the motor vehicle insurance industry to encourage premium discounts for motorists who have their windows etched and to consider issuing a brochure designed to educate consumers on the potential benefits of glazing etching.

NADA supports NHTSA’s decision to continue the parts marking exemption process, at least until after it has received and reviewed the Attorney General’s long range review. Clearly, the best anti-theft devices yield positive deterrent effectiveness results, despite their higher costs. Manufacturer installed anti-theft devices are increasingly found in new motor vehicles. In addition, dealers and other aftermarket installers sell and install a significant number of anti-theft devices, aided in part by the discounts some insurance companies offer.

On behalf of NADA, I thank NHTSA for the opportunity to comment on this matter.

Respectfully submitted,

Douglas I. Greenhaus
Director, Environment, Health and Safety

Attachment